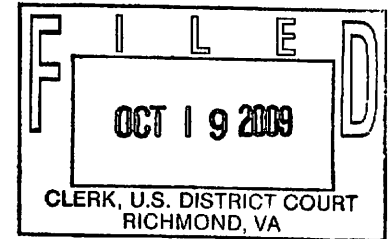


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



JAMES S. LESANE,

Petitioner,

v.

Civil Action No. **3:09CV611**

PAMELA COLEMAN,

Respondent.

MEMORANDUM OPINION

Petitioner, a federal inmate, has submitted this petition for a writ of mandamus wherein he seeks to “compel Judge Tidey of the Spotsylvania County Circuit Court to enter a decision granting petitioner summary & default judgment” (Pet. for Writ of Mandamus 1-2.) Petitioner has requested leave to proceed *in forma pauperis*. This Court must dismiss any action filed by a prisoner if the Court determines the action (1) “is frivolous” or (2) “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2); *see* 28 U.S.C. § 1915A. The first standard includes claims based upon “an indisputably meritless legal theory,” or claims where the “factual contentions are clearly baseless.” *Clay v. Yates*, 809 F. Supp. 417, 427 (E.D. Va. 1992) (*quoting Neitzke v. Williams*, 490 U.S. 319, 327 (1989)). The second standard is the familiar standard for a motion to dismiss under Fed. R. Civ. P. 12(b)(6).

This federal court lacks jurisdiction to grant mandamus relief against state officials or state agencies. *See Gurley v. Superior Court of Mecklenburg County*, 411 F.2d 586, 587 (4th Cir. 1969). Thus Petitioner’s petition for a writ of mandamus fails to state a claim and is legally

frivolous. Accordingly, the action will be DISMISSED. The Clerk will be DIRECTED to note the disposition of the action for purposes of 28 U.S.C. § 1915(g).

An appropriate Order shall issue.

OCT 19 2009

Date: _____
Richmond, Virginia

/s/
Richard L. Williams
United States District Judge